In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.6059 of 2006.

Date of decision:16.11.2006.

Sanjay Kumar Jain.

...Petitioner.

Versus

Smt. Usha Goel and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.K.K.Aggarwal Advocate for the petitioner.

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Judgment.

S. N. Aggarwal, J.

The petitioner is the defendant in the learned trial Court. Respondent Nos.1 to 3 herein had filed a suit for a declaration and permanent injunction. In the civil suit, the respondent Nos.1 to 3 were directed to produce on the file copy of trust deed dated 11.11.1954, copy of trust deed dated 27.1.1981, copy of trust deed dated 6.12.1995 and resolution of the authority dated 12.12.1995 as also of cancellation deed. They were even directed to file copies of those documents if the originals were not available with them but the respondent Nos.1 to 3 failed to do so. The petitioner filed an application under Order 7 Rule

11 read with Section 151 CPC for dismissing the suit but the learned trial Court vide order dated 31.10.2006 held that the original documents or copies thereof were not available with the plaintiff and the application filed by the petitioner for dismissal of the suit was rejected and the file was adjourned for cross-examination of respondent No.1 for 4.11.2006.

Hence, the present petition.

The submission of learned counsel for the petitioner was that respondent Nos.1 to 3 have taken the Court orders casually. Rather,they have failed to comply with the Court orders. The Court had been directing respondent Nos.1 to 3 for filing originals of those documents. When they failed to do so, the respondent Nos.1 to 3 were even directed to file copies thereof but even then they failed to comply with the Court order. It was submitted that the Court should not become helpless and the suit filed by respondent Nos.1 to 3 should have been dismissed for non-compliance of the Court orders. It was also submitted by the learned counsel for the petitioner that unless those documents are placed on the file by respondent Nos.1 to 3, the petitioner is not in a position to cross-examine them with regard to those documents. Hence, it was prayed that the petition be accepted and the suit be dismissed.

These submissions have been considered. These have no merit at all.

If the respondent Nos.1 to 3 were to file some documents

and if they have failed to do so inspite of Court orders, an adverse inference would be liable to be drawn against them. The petitioner can take up this plea in the learned trial Court for raising such a presumption against them, but, it cannot be made a ground for dismissal of the suit merely on that ground. There is, therefore, no illegality in the impugned order dated 31.10.2006 passed by the learned trial Court.

It was further submitted by the learned counsel for the petitioner that the civil suit was filed by respondent Nos.1 to 3 in the year 1997 and they have not been able to close their evidence even after lapse of 10 years. In these circumstances, the learned trial Court is directed to record and conclude the evidence of respondent Nos.1 to 3 expeditiously and preferably within a period of six months from the next date fixed in the learned trial Court.

This Civil Revision is disposed of in the above terms.

November 16,2006. (S. N. Aggarwal)
Jaggi Judge